BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the matter of:	
Numbering Resource Optimization	CC Docket No. 99-200
Connecticut Department of Public Utility Control Petition for Rulemaking to Amend the Commission's Rule Prohibiting Technology-Specific or Service-Specific Area Code Overlays	RM No. 9528
Massachusetts Department of Telecommunications and Energy Petition for Waiver to Implement a Technology-Specific Overlay in the 508, 617, 781, and 978 Area Codes	NSD File No. L-99-17
California Public Utilities Commission and the People of the State of California Petition for Waiver to Implement a Technology-Specific or Service-Specific Area Code	NSD File No. L-99-36

MOTION
TO ACCEPT LATE-FILED COMMENTS

The California Public Utilities Commission and the People of the State of California (California or CPUC) respectfully submit this Motion to Accept Late-Filed Comments because the accompanying Reply Comments of the California Public Utilities Commission and of the People of the State of California were due

on August 30, 1999. The Reply Comments respond to the Notice of Proposed Rulemaking (NPRM) issued by the Federal Communications Commission (FCC or Commission) on June 2, 1999.

The staff team dedicated to numbering issues at the CPUC is juggling many tasks, including the running of the monthly NXX code lottery and engaging in other regular NPA relief planning activities, as well as providing analysis for CPUC decisionmaking and for legislative matters. A bill pertaining to area code issues is pending in the California Legislature, and the month of August is the end of the legislative session. In addition, we have two controversial area code relief decisions pending before the CPUC. Staff resources needed for developing Reply Comments were devoted to providing assistance to our Legislative staff as well as to decisionmakers. Further, both the pending legislation and the pending decisions have spurred public meetings across the state which CPUC staff have had to attend. Also, during the month of August, many staff take long-planned vacations because school is out of session. Finally, in the past several days, as we prepared to file the document, our fileserver has repeatedly failed, thus even further delaying this late submission.

For all of these reasons, the CPUC was unable to prepare and submit its Reply Comments by August 30th. We did notify FCC staff prior to the August 30th filing date that we would be submitting this motion and the Reply Comments

late. Since this is the reply round, we do not believe that any party will be prejudiced by our late filing. We ask the FCC to accept these late-filed comments on the numbering NPRM.

Respectfully submitted,

PETER ARTH, JR.
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By: /s/ HELEN M. MICKIEWICZ

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Attorneys for the
Public Utilities Commission
State Of California

September 9, 1999

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document entitled "**MOTION TO ACCEPT LATE-FILED COMMENTS**" upon all known parties of record by mailing, by first-class mail, a copy thereof properly addressed to each party.

Dated at San Francisco, California, this 9th day of September, 1999.

/s/ HELEN M. MICKIEWICZ

HELEN M. MICKIEWICZ

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REPLY COMMENTS
OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION
AND OF THE PEOPLE OF THE STATE OF CALIFORNIA

The California Public Utilities Commission and the People of the State of California (CPUC or California) submit these Reply Comments on the Notice of Proposed Rulemaking (NPRM) issued by the Federal Communications Commission (FCC or Commission) in this docket on June 2, 1999. These Reply Comments were due

on August 30, 1999. Concurrent with these Reply Comments, the CPUC is filing a Motion to Accept Late-Filed Comments.

The FCC received Comments from upwards of sixty parties. The CPUC could not realistically reply to all Comments on all issues. Therefore, here we focus on a few issues of critical importance to the states generally and to the California public in particular.

I. INTRODUCTION

As a preliminary matter, the CPUC wishes to underscore both how extreme the current area code crisis is nationwide, and especially in California, as well as how vital it is that the FCC act promptly to adopt remedial measures. In their Joint Comments, the Texas Office of Public Utility Counsel and the National Association of State Utility Consumer Advocates (TOPUC/NASUCA) succinctly characterize the scope and magnitude of the problem confronting the Commission.

> [T]he current crisis has escalated to a point where the Commission must now consider numbering to be an urgent issue that demands immediate and decisive action. Delay diminishes both the availability of options and the potential effectiveness of any solutions that may ultimately be adopted. (TOPUC/NASUCA Comm., p. 9.)

As might be expected, the comments of many carriers generally diminish the importance of trying to solve the numbering crisis quickly, arguing that the need for national uniformity outweighs the public interest in avoiding, or at least delaying as long

as possible, NANP exhaust.[1] California concurs with TOPUC and NASUCA that the FCC must turn its full attention to resolving numbering issues as soon as possible.[2]

Further, the CPUC wishes to make clear that, in both our July 30th Comments and in these Reply Comments, when criticizing the industry's insensitivity to the public cost of repeated area code relief, we do not intend to paint all carriers with the same brush. Certainly, some carriers have made great efforts to seek compromise solutions to the numbering crisis facing the nation as a whole. In particular, we note that of those carriers whose comments we reviewed, both MCI Worldcom and Bell Atlantic put forward fairly balanced proposals which, though we do not agree with every point of those proposals, recognize the states' need to advance and protect the public interest in this process.

II. GREATER STATE AUTHORITY OVER PUBLIC NUMBERING RESOURCES IS NECESSARY

U.S. West offers a unique argument. The states, it says, have somehow wrested away control from the FCC and are running wild by adopting area code policies which are internally inconsistent, inconsistent with FCC policies, and wasteful of numbering resources. (U.S. West Comm., pp. 6-12.) Curiously, U.S. West offers not a single example of the behavior it alleges to be so rampant among state commissions. Despite the lack of facts supporting its assertions, U.S. West urges the Commission to "take back responsibility for numbering policy and administration". (Id. at 12.)

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[1] See US West Comm., p. 4: "The states' concerns regarding NPA exhaust are parochial and immediate."

[2] Failure to prevent premature NANP exhaust is particularly important in light of TOPUC/NASUCA's observation that expanding the NANP would be a "deadweight loss" to the US economy because it would not contribute to the nation's economic productivity. (TOPUC/NASUCA Comm., p. 23.)

The CPUC wonders what specifics U.S. West was relying on in making these extreme claims. We are not familiar with the activities of commissions in the states comprising U.S. West's service territory. Relying on our own experience, however, we have a very different perception. In California, we have pumped out one NPA relief plan after another, virtually doubling the number of area codes from 13 to 25 in just three years. [3] Despite this concerted effort to comply with both the spirit and the letter of FCC rules, despite our timely adoption of NPA relief plan after relief plan, the industry demand for NXX codes has not abated. Rather, the demand seems to be increasing at every turn. Last year, the 650 area code went into jeopardy three months after its implementation was completed. This year, the 323 NPA in Los Angeles went into jeopardy two days after its implementation was completed. Currently, the 805/661 relief plan is in the final months of implementation. We have been notified by the NANPA, before the split is even completed, that the 805 NPA must remain in jeopardy after the split is completed.

Much of the industry responds to this situation by asserting that state commissions are not implementing relief fast enough, as if opening three to five new area codes per year means doing business at a snail's pace. [4] While we do not claim to speak for other

[3] Implementation of California's 26th NPA, the 424 area code, has been temporarily suspended.

[4] See, "California, Massachusetts and New York in particular have been slow in adopting much needed area code relief." (Sprint Comms., p. 6.) And, see "if there is fear on the part of service providers that they are likely to face a protracted period of time in which they cannot obtain numbers, this should be taken as evidence that states are not exercising their delegated authority prudently." (MCI Worldcom Comm., p. 24.)

states, we have observed that the state perspective on the number drain is not that the FCC has allowed the states to seize control of the numbering system. Rather, the problem is that the FCC itself has not been involved enough in the process, and at the same time, has not delegated additional authority to the states so that they may exercise control. The planning and implementation of area code relief in most states is a process completely dominated by the industry. In California, the industry literally runs the process, with fairly limited input from the CPUC, or the public, until a plan is presented to us for consideration. Under these circumstances, and lacking any specifics from U.S. West, it is difficult to understand exactly what control the states are alleged to have commandeered and what they are doing with it.

Rather, as California views the situation, the FCC has kept to itself far more control than is necessary to maintain a functioning numbering system. In our view, a cohesive national numbering system simply means that when a customer picks up a telephone in Virginia and dials a number in Oregon, the call is completed because the dialing pattern is uniform across the country, and all equipment is programmed to accommodate that dialing pattern. Switching, transport, and routing protocols, of course, must be compatible as well. But, many in the industry, exemplified by U.S. West, as well as the Commission itself have expanded this concept to include every aspect of the numbering system. California does not see how the national numbering system will be impaired if the CPUC decides to deploy 1,000-block number pooling throughout the state, but the Texas Public Service Commission elects to implement pooling only in major

metropolitan areas. Were that to happen, the call from Virginia to Oregon would still be completed, as would calls from Houston to Los Angeles. Whether and where pooling is deployed does not implicate the dialing pattern or switching, transport or routing protocols.

What U.S. West and others are really complaining about is that, if the CPUC mandates implementation of 1,000-block pooling throughout the state, it might cost carriers more money to do business in California. In our view, that is a reasonable trade-off to avoid having the public bear the ever-escalating costs of living with frequent, repeated area code relief.

The FCC should resist industry arguments which expand the concept of a nationally uniform numbering system to include full federal control over every nuance of numbering policy. Today, state commissions oversee the actual planning and implementing of area code relief. We perform this task without the means to slow or limit our workload or the public inconvenience by trying to allocate numbers more efficiently. This is a scheme which does not work, and it does not work because state commissions have too little authority to do anything other than create new area codes. The Commission should not confuse different conservation approaches states may pursue with unique dialing patterns that truly could impede the flow of telecommunications traffic.[5]

[5] For example, no state has adopted an 8-digit dialing pattern in order to create more numbers. In California, this is one of many suggestions that members of the public make for "solving" the area code crisis.

Rather, the CPUC concurs with the recommendation of MCI, i.e., "the Commission should develop some national rules that guide the methodologies underlying the numbering process". (MCI Worldcom Comm., p. 45.) More specifically, MCI proposes that the FCC adopt rules for cost recovery measures, COCUS reporting, and forecast utilization, as well as a national implementation methodology for number pooling. Once this framework is in place, MCI proposes, the Commission should delegate

> authority to the states to make state-specific decisions within the framework. . . . The Commission's rules could afford states autonomy, similar to the autonomy they enjoy under the guidelines for implementing new area codes. The states would still have implementation power; their choices, however, would occur within the uniform, national framework created by the new rules. (Id.)

California believes that the framework MCI recommends is not inconsistent with the position set forth in the state outline attached to the CPUC's July 30th Comments. Further, we generally agree with the New York Department of Public Service.

> National uniformity may well be appropriate for establishing a uniform set of definitions for the purpose of collecting accurate data on utilization and demand. Yet, national uniformity is not appropriate for determining which optimization strategies should be implemented. (NYDPS Comm., p. 3.)

MCI and the NYDPS both propose that the FCC establish national rules, but at the same time, delegate to the states additional authority to implement conservation measures which comport with those rules. California concurs with this approach.

III. RATE CENTER CONSOLIDATION

Despite some supportive industry comments, the Commission should not implement its tentative suggestion to require states to consolidate rate centers before they

are allowed to implement number pooling. (See Sprint Comm., p. 22.) Requiring states to reduce the number of rate centers would implicate basic monthly rates and per-call costs to an extent far greater than any other conservation measure the FCC has proposed in the NPRM. This is a matter best left to the states, as Bell Atlantic notes.

> While rate center consolidation may appear to be an attractive way to conserve numbering resources, it is the state regulators, who are most knowledgeable about local calling patterns and customer needs, who should decide where and when to use this conservation tool. As the Commission noted, "some states are enthusiastic about implementing this measure, others contend that rate center consolidation may not be the best solution for their particular circumstances." [Footnote omitted.] The Commission should not do anything to encourage (or discourage) its use. (Bell Atlantic Comm., p. 16.)

Similarly, the Small Business Alliance for Fair Utility Regulation (SBA) proposes that "state commissions should take the lead in deciding whether rate centers should be consolidated at this time". (SBA Comm., p. 8; see also USTA Comm., p. 6, AT&T Comm., p. 35.) Further, MCI Worldcom has identified an important potential consequence of rate center consolidation.

> IntraLATA toll competition must also be factored into consideration of rate center consolidation.... Insofar as rate center consolidation would reduce the volume of toll traffic by redefining some calls as local, it could have the effect of moving traffic from a highly-competitive market to a largely-monopolized market. Since ILECs are unlikely to agree to rate center consolidation unless it is done in a revenue-neutral manner, one likely outcome is higher basic rates for local service. (MCI Worldcom Comm., pp. 22-23, emphasis added.)

The CPUC is still exploring rate center consolidation in California.[6] As explained in previous filings, the CPUC has sought input from the industry planning group in California but to date has received no concrete proposal(s) for how we might consolidate any number of our roughly 800 rate centers. On August 13, 1999 we issued an Administrative Law Judge's Ruling, seeking comment on issues the industry recommended be addressed before an actual consolidation plan could be proposed. A copy of the ruling is appended to these Reply Comments as Attachment I. (The Ruling's appendix is omitted.)

Notwithstanding this effort, we do not view rate center consolidation, by any stretch of the imagination, as a panacea for our present numbering woes. Further, requiring states to "implement" rate center consolidation, however the FCC may define that term, prior to obtaining authority to implement number pooling would be a recipe for delay. Delay is the very last thing the states, the industry, or the public need in coming to grips with the chaotic numbering situation we all confront.

IV. CARRIER CHOICE

While holding number pooling hostage to rate center consolidation would be a recipe for delay, "carrier choice" would be a recipe for disaster. The Commission may as well adopt no plan for numbering resources optimization if it opts for carrier choice, as the effect would be the same. Carriers offered the opportunity to choose conservation

[6] Sprint asserts that California has not "seriously examined rate center consolidation. (Sprint Comm., p. 22.) This is untrue. An industry task force is reviewing options for rate center in California. As noted in our July 30th Comments, the task force reported to us in July 1999 that the group would not offer any specific proposals until the CPUC resolved key revenue issues, and advised that we seek comment on numerous topics.

measures would select that which is cheapest and easiest for them, knowing that the public will continue to pay, literally, for continued NPA relief while the industry saves expenses. Further, allowing carriers to choose their conservation method of choice will severely impair the chance for any particular method to succeed. (See MCI Worldcom Comm., p. 31.) In addition, as USTA notes, carrier choice would not work because many numbering optimization methods "cannot be independently applied". (USTA Comm., p. 12.)

For at least one industry segment, the cheapest and easiest conservation method would be none at all. Indeed, as noted in our July 30th Comments, and confirmed in the Comments of SBC, incumbents, who hold the largest supply of both used and unused numbers, will elect to rest on their claimed utilization rates of 70 or 80 or 85 or 90 percent, depending on the ILEC's degree of creativity. (See SBC Comm., pp. 67-68.) It would be extraordinarily wasteful of numbering resources to allow carriers to decline to participate in conservation measures simply because they assert high utilization rates. (AT&T Comm., p. 58.) Audits may not be authorized at all, and if they are authorized, they may be years in the making.[7] In the meantime, numbers will be stranded in the ILEC s' embedded bases.

[7] SBC further proposes that the FCC adopt only "for cause" and random audits. (SBC Comm., p. 56.) Presumably, this would eliminate any comprehensive assessment of the number holdings of most ILECs as the Commission begins implementing the rules adopted in this docket. Since the ILECs insist they have extremely high utilization rates, they can escape any initial scrutiny and, under SBC's proposal, avoid having to participate in 1,000-block pooling because they have "met" any threshold the FCC adopts.

The FCC cannot rationally consider carrier choice to be a reasonable solution to the numbering crisis facing the United States. To institute carrier choice would be pandering of the worst sort to carriers which have demonstrated nothing more than manifest contempt for the needs and concerns of the very customer base they claim to be serving. The customers for whom these carriers insist they must have numbers are the same customers who are paying the costs of repeated and unnecessary area code relief. But, understandably, carrier concern for those customers does not override the business need to keep expenses as low as possible so that profits rise as high as possible. Thus, placing permanent oversight of numbering resources in the hands of the industry will merely continue numbering policies driven by the "bottom line", and not by the public interest. This is not the appropriate course for a federal agency charged with responsibility to protect the interests of the American public.

V. ADMINISTRATIVE MEASURES

A. Utilization Thresholds

The CPUC disagrees with carriers who oppose establishment of a utilization threshold, or who insist that such a threshold should apply only to some classes of carriers. (See MCI Worldcom Comm., p. 26.) California believes that establishing utilization thresholds is vital to ensuring that numbering resources are efficiently and effectively deployed. Further, we disagree with those carriers who argue that any utilization threshold the FCC may adopt should not apply to a carrier's initial code in a